



MAIL STOP PETITION
PATENT
8964-000031/US

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Jiunn-Liang KO et al.

Appl. No.: 10/572,563

Group: Unassigned

Filed: March 17, 2006

Examiner: Unassigned

For: FUNGAL IMMUNOMODULATORY PROTEIN (FIP)
PREPARED BY MICROORGANISMS AND USES THEREOF

RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)

February 22, 2008

Mail Stop Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Pursuant to 37 C.F.R. § 1.47(a), Applicants petition to proceed with the prosecution of the above-identified application, which names Jiunn-Liang KO, Yu-Lu HUANG, Tzu-Chih CHEN, Hsu-Wei HUNG, Ho-Lung JIANG, Ching-Lung HU, Cheng-Chun KUAN, and Hsuan-Ju THOU, in the name of Jiunn-Liang KO, Yu-Lu HUANG, Ho-Lung JIANG, Tzu-Chih CHEN, and Hsuan-Ju THOU.

The Applicants' petition dated April 2, 2007 was dismissed on August 24, 2007 for the following reasons:

- (1) Chen's declaration does not appear to be a statement of first hand knowledge;
 - (2) A complete copy of the application papers was not sent to each of nonsigning inventors;
- and

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- (3) An English translation of an attachment was not submitted.

Applicants re-submit a petition with Exhibits 1-6 satisfying the requirements of 37 C.F.R. § 1.47(a).

(1) Each of the declarants has first hand knowledge on the matters stated in the declaration.

Mr. Tzu-Chih CHEN has personally communicated with each of the four nonsigning inventors, i.e., Hsu-Wei HUNG, Ho-Lung JIANG, Ching-Lung HU and Cheng-Chun KUAN. Based on his first hand knowledge, Mr. Chen states in his declaration (Exhibit 1) that he personally knows that a letter was mailed to each of the nonsigning inventors along with copies of a reply sheet, the patent specification, a declaration and power of attorney, and an assignment. Only Mr. Jiang responded to Mr. Chen's letter.

Mr. David Ko assisted Mr. Chen and the other inventors, particularly in delivering documents relating to the patent application and communicating with the nonsigning inventors. Based on his first hand knowledge, Mr. Ko states in his declaration (Exhibit 2) that he has made diligent efforts to contact the nonsigning inventors on behalf of Applicants. The communication history since July 26, 2006 is summarized in Exhibit 2.

(2) A physical copy of the specification including claims was delivered to the nonsigning inventors.

A letter entitled "Notice" (Exhibit 3-1) was mailed on December 3, 2007 to each of the four nonsigning inventors along with a reply sheet (Exhibit 3-2), a declaration and power of attorney (Exhibit 3-3), an assignment (Exhibit 3-4) and the patent specification (Exhibit 3-5). As shown in Mr. Ko's declaration (Exhibit 2, paragraph 7) and Notice (Exhibit 3-1), a complete copy of the application papers was sent to the inventors pursuant to MPEP 409.03(d). In addition to Mr. Ko's declaration and letter, a mailing receipt (Exhibit 4-1) and its English translation (Exhibit 4-2) evidence the actual delivery of the copy to the nonsigning inventors.

Mr. Ko received an executed declaration and assignment from Ho-Lung JIANG after the mailing. Thus, Mr. Jiang now becomes a signing inventor. A copy of each document from Mr. Jiang is attached hereto as Exhibit 5-1 (executed declaration) and Exhibit 5-2 (executed assignment).

Not receiving any response from the remaining nonsigning inventors, Mr. Ko emailed and called each of them on behalf of Applicants (see Exhibit 2, paragraph 9). As summarized in the attached Phone Record (Exhibit 6), the three nonsigning inventors expressly showed their intention to refuse to sign the declaration and assignment relating to the present patent application. In addition to Exhibit 6, Mr. Ko states in his declaration that the inventors stated that they are unwilling to sign the documents (see Exhibit 2, paragraphs 9-12).

(3) A Non-English exhibit

An English translation of the Chinese mailing receipt (Exhibit 4) is prepared and submitted herein.

CONCLUSION

First, a complete copy of the application papers including the patent specification was delivered to the last known address of the nonsigning inventors (see Exhibits 3-5 and 4-2).

Second, Applicants' diligent effort to contact them is demonstrated by the two declarations (see Exhibits 1 and 2) which were prepared based on the declarants' first hand knowledge. In response, Hsu-Wei HUNG, Ching-Lung HU and Cheng-Chun KUAN made clear that they would not sign the declaration and assignment relating to the present patent application (see Exhibits 2, 6 and 7).

Last, an English translation of the Chinese mailing receipt (Exhibit 4) is submitted.

These circumstances satisfy the requirements under 37 C.F.R. § 1.47(a). Therefore, Applicants respectfully submit that this petition is in allowable condition.

Petition is hereby made for extension of time of four (4) months. Authorization is hereby given to charge \$950 to Deposit Account No. 08-0750 to cover the fee for the extension and the Petition fee. The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

HARNESS, DICKY & PIERCE, P.L.C.

By: _____

John A. Castellano, Reg. No. 35,094
P.O. Box 8910
Reston, VA 20195
(703)668-8000

JAC/GPB/EGH:ame

Enclosures

- Exhibit 1. Chen's declaration
- Exhibit 2. Ko's declaration
- Exhibit 3-1. Notice
- Exhibit 3-2. Reply sheet
- Exhibit 3-3. Declaration and power of attorney
- Exhibit 3-4. Assignment
- Exhibit 3-5. The patent specification (first page only)
- Exhibit 4. A Chinese mailing receipt & an English translation of the mailing receipt
- Exhibit 5-1. Jiang's declaration and power of attorney
- Exhibit 5-2. Jiang's assignment
- Exhibit 6. Phone Record
- Exhibit 7. Legal Attest Letter from attorney Ting-Yu Zhuang and English translation thereof

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/572,563
Filing Date: March 17, 2006
Applicant: Jiunn-Liang KO et al
Group Art Unit: Unassigned
Examiner: Unassigned
Title: FUNGAL IMMUNOMODULATORY PROTEIN (FIP)
PREPARED BY MICROORGANISMS AND USES
THEREOF
Attorney Docket: 8984-000031/US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION IN SUPPORT OF PETITION UNDER 37 CFR 1.42 - 1.47

Sir:

I, Tzu-Chih CHEN, hereby declare that:

Proof of Pertinent Facts Showing the Third Inventor, Hsu-Wei HUNG is Unavailable

- (i) I mailed a copy of the patent specification and claims along with a declaration and assignment to Hsu-Wei HUNG at his last known address, 15F., No. 18, Alley 9, Lane 297, Yuantong Rd., Jhonghe City, Taipei County 235, Taiwan, R.O.C.
- (ii) The mail receipt shows that the copy was sent to Hsu-Wei HUNG. See Attachment 1 and its English translation enclosed herewith.
- (iii) I have not received any response from Hsu-Wei HUNG.

Proof of Pertinent Facts Showing the Fifth Inventor, Ching-Lung HU is Unavailable

- (i) I mailed a copy of the patent specification and claims along with a declaration and assignment to Ching-Lung HU at his last known address, 3F., No. 4, Alley 12, Lane 79, Sec 2, Sinyi Rd., Jhongheng District, Taipei City 100, Taiwan, R.O.C.
- (ii) The mail receipt shows that the copy was sent to Ching-Lung HU. See Attachment 1 and its English translation enclosed herewith.

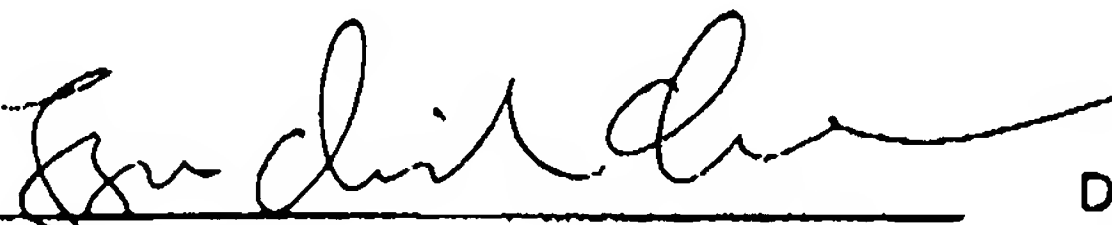
- (iii) I have not received any response from Ching-Lung HU.

Proof of Pertinent Facts Showing the Sixth Inventor, Cheng-Chun KUAN Is Unavailable

- (i) I mailed a copy of the patent specification and claims along with a declaration and assignment to Cheng-Chun KUAN at his last known address, 4F., No. 24-11, Lane 134, Sec. 3, Sinyi Rd., Da-an District, Taipei City 106, Taiwan, R.O.C.
- (ii) The mail receipt shows that the copy was sent to Cheng-Chun KUAN. See Attachment 1 and its English translation enclosed herewith.
- (iii) I have not received any response from Cheng-Chun KUAN.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under Title 18, United States Code, § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Declarant's
Signature:


(name)

Date: 2007.12.21

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jiunn-Liang KO et al.
Application No.: 10/572,563
Int'l App. No.: PCT/CN2004/001044
Filing Date: March 17, 2006
Title: FUNGAL IMMUNOMODULATORY PROTEIN (FIP)
PREPARED BY MICROORGANISMS AND USES
THEREOF
Attorney Docket: 8964-000031/US

DECLARATION

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Mail Stop AMENDMENT

I, David KO, declare:

1. My company, BIOBIZLAW INC., was retained by Yeastern Biotech Corporation to coordinate the filing of the above-noted patent application in the U.S. Patent and Trademark Office on behalf of the inventors.
2. Based on the inventor information provided, U.S. patent counsel provided me with a Declaration and Power of Attorney ("Declaration") and an Assignment document

naming Jiunn-Liang KO; Yu-Lu HUANG; Tzu-Chih CHEN; Hsu-Wei HUNG; Ho-Lung JIANG; Ching-Lung HU; Cheng-Chun KUAN and Hsuan-Ju THOU as the inventors.

3. On July 26, 2006, I sent a cover letter and a copy of both the Declaration and the Assignment documents (collectively, the "formal documents") to each of the named inventors at their last known mailing address. See Attachment 1 and its English translation.

4. The cover letter provided to the inventors with the formal documents explained the requirement under 37 C.F.R. § 1.64 that each of the actual inventors must execute an Oath or Declaration in compliance with 37 C.F.R. § 1.63 in order to complete the application. See Attachment 2 and its English translation.

5. Also included with the formal documents was a reply form on which the inventor(s) could provide additional explanation in the event they were unwilling to sign the Declaration. See Attachment 3 and its English translation.

6. We received signed Declaration documents from Jiunn-Liang KO; Yu-Lu HUANG; Tzu-Chih CHEN and Hsuan-Ju THOU, respectively, but did not from Hsu-Wei HUNG; Ching-Lung HU; Ho-Lung JIANG or Cheng-Chun KUAN.

7. On Dec. 3, 2007, I sent the patent specification including claims along with the formal documents to each of the nonsigning inventors at their last known mailing address.

8. We received signed Declaration documents from Ho-Lung JIANG respectively, but did not from Hsu-Wei HUNG; Ching-Lung HU or Cheng-Chun KUAN.

9. In the absence of signed Declarations, David KO, initiated additional attempts to contact inventors Hsu-Wei HUNG; Ching-Lung HU and Cheng-Chun KUAN (hereinafter the "recalcitrant inventors") by email and telephone.

10. When contacted by David KO, recalcitrant inventor Hsu-Wei HUNG advised that he refused to sign the Declaration until such time as a dispute regarding the assignment of rights in the invention with Yeastern Biotech Corporation is resolved to his satisfaction.

11. When contacted by David KO, recalcitrant inventor Cheng-Chun KUAN specifically advised that he refused to sign the Declaration until such time as a dispute regarding the assignment of rights in the invention with Yeastern Biotech Corporation is resolved to his satisfaction.

12. When contacted by David KO, recalcitrant inventor Ching-Lung HU specifically advised that he refused to sign the Declaration until such time as a dispute regarding the assignment of rights in the invention with Yeastern Biotech Corporation is resolved to his satisfaction.

13. Accordingly, despite confirmed contact with the recalcitrant inventors, signed Declaration or Assignment documents have not yet been received from recalcitrant inventors Hsu-Wei HUNG; Ching-Lung HU or Cheng-Chun KUAN.

14. I hereby declare that all statements made herein of my own knowledge is true, and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: Dec 21 2007

David KO

David KO (President)

BIOBIZLAW INC.

5F-3, No. 293-3, SEC. 2, FUSING SOUTH ROAD,

TAIPEI, TAIWAN, REPUBLIC OF CHINA

Tel: +886-2-27369139 Fax: +886-2-27363353

Notice

Dec. 3, 2007

Our ref.:0269-YB-US

Receiver : Inventor- Cheng-Chun KUAN, Hsu-Wei HUNG, Ho-Lung JIANG, Ching-Lung HU

Cosigner : Biobizlaw Inc. David Ko President

Re : 「A fungal immunomodulatory protein produce by microorganism and use thereof」 patent application

Inventor: Mr./Ms. _____,

Yestern Biotech Co., entrust our firm to cope with this case and contact with all inventors of this case. Following circumstances is related to the rights of inventors, hereby notified.

The application was filed by PCT route in 2004 and all of you are co-inventor of this case. This case is entry into national phase now— US patent application.

Enclosed please find the related documents include specification, claims and drawings of this case.

According to the request of USPTO, the inventors have to sign the documents (Assignment and Declaration and Power of Attorney) and send it to USPTO while filing the patent. Please sign the documents described above and send them to our firm.

This application is joint the painstaking care of the inventors. You have the right to have your name mentioned. However this application is the effort of post (especially when you are the employee of Yestern Biotech Co.), the patent right is belong to your employer. Do not affect others' right by personal reasons. Please sign the above document.

If you do not want to sign the documents or have any difficulty, please explain your reason in the “reply sheet” and send it or fax it to our firm. If you have any question about the contents of documents or any inconvenient, please contact us. We

BIOBIZLAW INC.

5F-3, No. 293-3, SEC. 2, FUSING SOUTH ROAD,

TAIPEI, TAIWAN, REPUBLIC OF CHINA

Tel: +886-2-27369139 Fax: +886-2-27363353

are glad to serve you.

Let us reiterate do not affect others' right just because of personal reasons. Please cooperate to above circumstances. Please note, all contacts item and the reply opinion are recorded.

Please reply before Dec. 15, 2007. Our address: 5F-3, No.293-3, Sec. 2, Fusing South Road, Taipei, Taiwan, Republic of China. Tel: 02-2736-9139 Fax: 02-2736-3353

Enclosure :

1. Reply sheet (1 page)
2. Declaration and power of attorney (4 pages)
3. Assignment (3 pages)
4. Specification of this case (37 pages)

If you still have any question or instruction , please let us know.

Best,

David Ko
President
BioBizLaw Inc.

cc: Connie Chang

BIOBIZLAW INC.

5F-3, No. 293-3, SEC. 2, FUSING SOUTH ROAD,

TAIPEI, TAIWAN, REPUBLIC OF CHINA

Tel: +886-2-27369139 Fax: +886-2-27363353

Reply Sheet

Notice Date: Dec. 3, 2007

Contact Window: Connie Chang

Our ref.: 0269-YB-US

Application No.: US 10/552,900 (PCT/CN2004/001044)

Title: A fungal immunomodulatory protein produce by microorganism and use thereof

Filing Date: 2004.09.14

Filing Country: PCT—U.S.

Applicant: Yeastern Biotech Co.

Re : The signature documents

	Agree to sign the documents
	Disagree to sign the documents Reasons:
	others :

Replyer: _____

Reply Date:

✂Please fill this form and send it back or fax it to our firm before Dec. 15,

2007. Thanks for your cooperation.

DECLARATION

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**FUNGAL IMMUNOMODULATORY PROTEIN (FIP) PREPARED BY
MICROORGANISMS AND USES THEREOF**

the specification of which (check one)

- ☐ is attached hereto.
or
☒ was filed on March 17, 2006 and which has been assigned U.S.
Application Serial No. 10/572,563.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed:

PRIOR FOREIGN APPLICATION(S)				
APPN. SERIAL NO.	COUNTRY	DATE FILED (MM/DD/YYYY)	PRIORITY CLAIM	
			Yes	No
PCT/CN2004/001044	China	09/14/2004	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

PRIOR PROVISIONAL APPLICATION(S)	
APPN. SERIAL NO.	DATE FILED (MM/DD/YYYY)
60/503,547	09/17/2003

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) listed below:

PRIOR U.S. APPLICATION(S)		
APPN. SERIAL NO.	DATE FILED (MM/DD/YYYY)	STATUS - PATENTED, PENDING, ABANDONED

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY

I hereby appoint the following attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

John A. Castellano	Reg. No. 35,094
Terry L. Clark	Reg. No. 32,644
Donald J. Daley	Reg. No. 34,313
Gary D. Yacura	Reg. No. 35,416

and all individuals assigned to Customer No. 30593.

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

I request the Patent and Trademark Office to direct all correspondence and telephone calls relative to this application to Harness, Dickey & Pierce, P.L.C., Customer No. 30593, P.O. Box 8910, Reston, Virginia, 20195, (703) 668-8000.

Full name of sole or first inventor: Jiunn-Liang KO

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

I request the Patent and Trademark Office to direct all correspondence and telephone calls relative to this application to Harness, Dickey & Pierce, P.L.C., Customer No. 30593, P.O. Box 8910, Reston, Virginia, 20195, (703) 668-8000.

Full name of second joint inventor: Yu-Lu HUANG

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

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Full name of third joint inventor: Tzu-Chih CHEN

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

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Full name of fourth joint inventor: Hsu-Wei HUNG

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

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Full name of fifth joint inventor: Ho-Lung JIANG

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

I request the Patent and Trademark Office to direct all correspondence and telephone calls relative to this application to Harness, Dickey & Pierce, P.L.C., Customer No. 30593, P.O. Box 8910, Reston, Virginia, 20195, (703) 668-8000.

Full name of sixth joint inventor: Ching-Lung HU

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

I request the Patent and Trademark Office to direct all correspondence and telephone calls relative to this application to Harness, Dickey & Pierce, P.L.C., Customer No. 30593, P.O. Box 8910, Reston, Virginia, 20195, (703) 668-8000.

Full name of seventh joint inventor: Cheng-Chun KUAN

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

I request the Patent and Trademark Office to direct all correspondence and telephone calls relative to this application to Harness, Dickey & Pierce, P.L.C., Customer No. 30593, P.O. Box 8910, Reston, Virginia, 20195, (703) 668-8000.

Full name of eighth joint inventor: Hsuan-Ju THOU

Inventor's signature: _____

Date: _____

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

WHEREAS, the undersigned, hereinafter referred to collectively as Assignor, has invented:

FUNGAL IMMUNOMODULATORY PROTEIN (FIP) PREPARED BY MICROORGANISMS AND USE THEREOF

for which Assignor is about to make or has made United States or International application for patent

- (a) ☐ executed on even date preparatory to filing (each inventor should sign this Assignment on the same day as he/she signs the Declaration and Power of Attorney);
- (b) ☐ executed on _____, _____, _____; or
- (c) ☒ filed on March 17, 2006, and assigned Serial No. _____ or PCT International Application No. _____;
- (d) ☐ U.S. Patent No. _____, issued _____; and

WHEREAS, Yeastern Biotech Co., Ltd., with address at F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan, hereinafter referred to as Assignee, is desirous of acquiring an interest therein:

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy whereof is hereby acknowledged, Assignor by these presents does sell, assign and transfer unto Assignee and its successors in interest, the full and exclusive right, title and interest in the United States of America and all foreign countries, including the right to claim priority under the laws of the United States, the Paris Convention, and any foreign countries, to the said invention as described in the aforesaid application, said application for patent and all Letters Patent therefor to be held and enjoyed by Assignee to the full end of the term for which said Letters Patent are granted and any extensions thereof as fully and entirely as the same would have been held by Assignor had this assignment and sale not been made, and the right to recover for past infringements of, or liabilities for, any of the rights relating to any of said applications or patents resulting therefrom;

Assignor hereby covenants and agrees to execute all instruments or documents required or requested for the making and prosecution of any applications of any type for patent in the United States and in all foreign countries including, but not limited to, any provisional, continuation, continuation-in-part, divisional, renewal or substitute thereof, and as to letters patent any reissue, re-examination, or extension thereof, and for litigation regarding, or for the purpose of protecting title and to the said invention, the United States application for patent, or Letters Patent therefor, and to testify in support thereof, for the benefit of Assignee without further or other compensation than that above set forth;

Assignor hereby covenants that no assignment, sale or agreement or encumbrance has been or will be entered into which would conflict with this Assignment; and

Assignor hereby requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States of America to Assignee, and requests that any official of any country or countries foreign to the United States, whose duty it is to issue or grant patents and applications as aforesaid, to issue said Letters Patent, Utility Model Registration or Inventor's Certificate to Assignee.

The undersigned hereby grant(s) the law firm of Harness, Dickey & Pierce, P.L.C. the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office for recordation of this document.

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Jiunn-Liang KO

Dated

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Yu-Lu HUANG

Dated

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Tzu-Chih CHEN

Dated

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Hsu-Wei HUNG

Dated

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Ho-Lung JIANG

Dated

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Ching-Lung HU

Dated

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Cheng-Chun KUAN

Dated

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Hsuan-Ju THOU

Dated

DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

DECLARATION

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

FUNGAL IMMUNOMODULATORY PROTEIN (FIP) PREPARED BY MICROORGANISMS AND USE THEREOF

the specification of which (check one)

- ☐ is attached hereto.
or
☐ was filed on _____, as Application Serial No. or PCT
International Application No. _____ and was amended on _____
(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed:

PRIOR FOREIGN APPLICATION(S)				
APPN. SERIAL NO.	COUNTRY	DATE FILED (MM/DD/YYYY)	PRIORITY CLAIM	
			Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

FUNGAL IMMUNOMODULATORY PROTEIN (FIP) PREPARED BY MICROORGANISMS AND USES THEREOF

BACKGROUND OF THE INVENTION

Field of the Invention

[0001] The invention relates to an improved nucleic acid molecule encoding fungal immunomodulatory protein (FIP) that is better expressed in fungi, to vectors comprising the nucleic acid molecule, to hosts transformed with said vectors, to processes of expressing the protein of the invention in said transformed hosts, to the protein of the invention produced by said processes, to uses of said hosts comprising the protein of the invention and to a process of purifying FIP. The protein of the invention has wide immunomodulatory activity. Thus, the present invention further relates to uses of the protein of the invention in cosmetic or pharmaceutical compositions and to food or feed additives comprising the protein of the invention. Finally, the invention relates to the method of modulating immunological activities by orally administering FIP or proteins fused with FIP to a subject.

Description of the Prior Art

[0002] Lectins from Fungal fruit bodies or mycelia have immunomodulatory and hepatoprotective effects that have been suggested to be able to remove free radicals (Lin J.M. et al., *Am J Chin Med.* 1993;21(1):59-69). (L)-galactoside-specific lectins from mistletoe enhance cytokine production *in vitro* and *in vivo* (Gabijs H.J. et al., *Anticancer Res.* 1992 May-Jun;12(3):669-75). In a test using Balb/C mouse as the disease model, lectins and recombinant lectins can inhibit tumor formation (Couraud P.O. et al., *J. Biol. Chem.* 1989; 264:1310-1316).

[0003] Ganoderma is a rare and valuable herb in Chinese medicine. It has been known in China for over 5,000 years as "Ling Zhi". There are a variety of ganodenmas, including *G. lucidum* (red), *G. applanatum* (brown), *G. tsugae* (red), *G. sinense* (black), and *G. oregonense* (dark brown).

[0004] Several proteins from edible fungi such as *Ganoderma Lucidium* (Ling zhi or Reishi), *Volvariella Volvacea* (Chinese Mushroom), *Flammulina Velutipes* (Golden needle mushroom) share similar amino acid sequences and immunomodulatory functions. These proteins were named fungal immunomodulatory proteins (FIPs) (Ko J.L., *Eur. J. Biochem.* 1995; 228:224-249). Among all health foods in Chinese medicine, Ling Zhi is the best-studied fungus.

[0005] It has been known that Ling Zhi has anti-allergy (Chen H.Y et al., *J. Med. Mycol.* 1992; 33:505-512), hepatoprotective (Lin J.M. et al., *Am J Chin Med.* 1993;21(1):59-69), anti-tumor effects (Wasser SP(1999), *Crit Rev*

Internal Parcels and Certified mails Tracking Service

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Item number	Status	Processing date/time	Processing office number	Check the details
91262810004470	Delivery success	2007/12/05 16:44:57	100587	Check the details
91262710004470	Delivery success	2007/12/05 16:08:19	100587	Check the details
91262610004470	Delivery success	2007/12/05 18:00:25	220602	Check the details
91262510004470	Delivery success	2007/12/06 17:39:47	241033	Check the details

※The processing date/time is recorded after delivery, therefore, this is not the exact receiving time.

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91262710004470	投遞成功	2007/12/05 16:08:19	100587	查明細
91262610004470	投遞成功	2007/12/05 18:00:25	220602	查明細
91262510004470	投遞成功	2007/12/06 17:39:47	241033	查明細

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DECLARATION AND POWER OF ATTORNEY

Atty. Dkt. No.: 8964-000031/US

CORRESPONDENCE ADDRESS

I request the Patent and Trademark Office to direct all correspondence and telephone calls relative to this application to Harness, Dickey & Pierce, P.L.C., Customer No. 30593, P.O. Box 8910, Reston, Virginia, 20195, (703) 668-8000.

Full name of fifth joint inventor: Ho-Lung JIANG

Inventor's signature: Ho-Lung Jiang

Date: Dec. 07, 2007

Residence: F6-3, 23, Lane 169, KangNing St., Shijr, Taipei, 221, Taiwan

Citizenship: Republic of China

Mailing Address: Same as Above

ASSIGNMENT

Atty. Dkt. No.:8964-000031/US

Ho-Lung Jung
Ho-Lung JIANG

Dec. 07, 2007
Dated

PHONE RECORD

In this case inventors included Hsu-Wei HUNG, Ching-Lung HU and Cheng-Chun KUAN, who did not sign the documents of DECLARATION AND POWER OF ATTORNEY and ASSIGNMENT account for their reason of refusing to sign.

Inventor: Hsu-Wei HUNG	Date: 2007.12.12 15:20
Phone Content: Hsu-Wei HUNG showed his opinions that before the adscription of related rights between Yeastern Biotech CO., Ltd. and himself are settled, he had no willing to sign the two document of DECLARATION AND POWER OF ATTORNEY and ASSIGNMENT.	
Inventor: Ching-Lung HU	Date: 2007.12.12 15:17
Phone Content: Ching-Lung HU showed his opinions that before the adscription of related rights between Yeastern Biotech CO., Ltd. and himself are settled, he had no willing to sign the two document of DECLARATION AND POWER OF ATTORNEY and ASSIGNMENT.	
Inventor: Cheng-Chun KUAN	Date: 2007.12.20 14:18
Phone Content: Cheng-Chun KUAN showed his opinions that before the adscription of related rights between Yeastern Biotech CO., Ltd. and himself are settled, he had no willing to sign the two document of DECLARATION AND POWER OF ATTORNEY and ASSIGNMENT.	

Recorders: David KO

Date: 20 07.12.21

Legal attest letter

Dear Sir,

RE: I hereby was entrusted by my clients, Hsu-Wei HUNG, Ching-Lung HU and Cheng-Chun KUAN to inform your firm by legal attest letter. Your firm sent a letter to request my client to sign the Declaration and power of attorney, and Assignment of the U.S. Application. Because there are some unsettled down issues, my clients regretted that they cannot sign the documents described above before clarifying the issues.

Attorney

Ting-Yu Zhuang

(Noted the attorney represent Hsu-Wei HUNG, Ching-Lung HU and Cheng-Chun KUAN)

郵局存證信函用紙



副正本

竹東工研院郵局

存證信函第 (6) 號

一、寄件人 姓名：莊婷聿 律師
詳細地址：新竹縣竹東鎮中興路四段 195 號 52 館 316 室
二、收件人 姓名：基律科技智財有限公司
詳細地址：台北市復興南路二段 293-3 號 5 樓之 3
三、副本 姓名：益生生技開發股份有限公司
收件人 詳細地址：臺北市中山區建國北路 2 段 3 巷 31 號 1 樓
姓名：洪旭偉先生
詳細地址：台北市重慶北路 146 號
(本欄姓名、地址不敷填寫時，請另紙聯記)

格 行	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
一	敬	啟	者	,																
二	主	旨	:	茲	受	當	事	人	洪	旭	偉	先	生	、	胡	慶	龍	先	生	以
三	及	官	振	群	先	生	之	委	任	,	僅	以	此	函	通	知		台	端	,
四	台	端	來	函	請	求	我	方	當	事	人	簽	署	之	美	國	專	利	聲	明
五	書	、	委	託	書	與	權	利	讓	渡	書	,	因	尚	有	疑	義	,	在	疑
六	義	釐	清	前	,	我	方	當	事	人	恕	難	簽	署	上	開	文	件	,	敬
七	請	查	照	。																
八	說	明	:																	
九	一	、	依	據	當	事	人	洪	旭	偉	先	生	、	胡	慶	龍	先	生	以	及
十	官	振	群	先	生	委	任	辦	理	。										

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副本 份，存證費 元，
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經 郵局

年 月 日證明 正本內容完全相同 副

郵戳

經辦員 主管

印

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註

一、存證信函需送交郵局辦理證明手續後始有效，自交寄之日起由郵局保存之副本，於三年期滿後銷燬之。

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三、每件一式三份，用不脫色筆或打字機複寫，或書寫後複印、影印，每格限書一字，色澤明顯、字跡端正。

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郵局存證信函用紙

副正本

郵局 存證信函第 號						姓名： 一、寄件人 詳細地址： 姓名： 二、收件人 詳細地址： 姓名： 三、收件人 詳細地址： (本欄姓名、地址不敷填寫時，請另紙聯記)														
格 行	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
一	二、茲據上當事人委稱：「益生生技開發股份有																			
二	限公司(下稱「益生公司」)委託基律科技智財																			
三	股份有限公司(下稱「基律公司」)分別於民國																			
四	95年7月27日與96年12月3日寄發通知函																			
五	與吾等，稱「利用微生物置備真菌免疫調節蛋																			
六	白(FTP)及其用途」專利申請案於2004年時進																			
七	行PCT專利申請，目前已進入國家階段—美國																			
八	專利申請，並完成申請手續，需由發明人簽署																			
九	聲明書與委託書(Declaration and power of																			
十	attorney)、與權利讓渡書(Assignment)」，要																			
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經 年 月 日證明 郵局 正 本內容完全相同 副 郵戳 經辦員 主管 印						郵 票 或 郵 資 券						處								
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騎縫郵戳

郵、局 存 證 信 函 用 紙

副 正
本

郵 局 存證信函第 號	姓名：	印
	一、寄件人 詳細地址：	
	姓名：	
	二、收件人 詳細地址：	
	姓名：	
	三、收件人 詳細地址：	
(本欄姓名、地址不敷填寫時，請另紙聯記)		

莊
婷
聿

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一	求	吾	等	『	於	上	述	兩	份	文	件	之	個	人	姓	名	欄	位	處	簽
二	名	，	並	將	簽	名	文	件	正	本	以	掛	號	寄	回	』				
三	經	查	，	基	律	公	司	於	函	件	中	所	提	及	之	相	關	申	請	案
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五	相	關	文	件	，	該	疑	點	如	下	：									
六	1.	基	律	公	司	來	函	中	，	案	件	回	覆	單	上	之	申	請	案	號
七	『	US	10/552,900	』	，	本	申	請	案	並	非	吾	等	之	發					
八	明	，	吾	等	無	簽	署	上	開	文	件	之	必	要	。					
九	2.	基	律	公	司	之	來	函	中	，	案	件	回	覆	單	上	之	申	請	案
十	號	『	PCT/CN2004/001044	』	，	雖	係	吾	等	之	發	明	，							

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	副本	份，存證費	元，
	附件	張，存證費	元，
	加具副本	份，存證費	元，合計 元。

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年 月 日證明 正 本內容完全相同
副

郵戳

經辦員
主管

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註

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二、在 頁 行第 格下增刪 字

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三、每件一式三份，用不脫色筆或打字機複寫，或書寫後複印、影印，每格限書一字，色澤明顯、字跡端正。

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郵局

騎縫郵戳

騎縫郵戳

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格	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
行	在 PCT 之申請書上亦有列吾等為發明人，然而																			
一	經查，本件並無相對應之美國申請案，故吾等																			
二	亦無簽署上開文件之必要。																			
三	3. 前開申請案號『PCT/CN2004/001044』之發明																			
四	內容係吾等之發明，然而是否屬於『職務上之																			
五	工作成果』則有待參酌，雖該申請案申請時吾																			
六	等確實任職於益生公司，然而該發明之內容並																			
七	非吾等於職務上所完成之發明，縱若益生將以																			
八	本件申請美國專利，吾等亦無簽署該轉讓書之																			
九	必要。																			
十																				
本存證信函共 頁，正本 份，存證費 元， 副本 份，存證費 元， 附件 張，存證費 元， 加具副本 份，存證費 元，合計 元。						黏		貼												
郵局 經辦員 主管 印 正 本內容完全相同 副 本						郵 票 或		資 券												
						郵 資		券												
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騎縫郵戳

騎縫郵戳

郵局存證信函用紙

副正本

郵局 存證信函第 號	姓名： 一、寄件人 詳細地址：	<div>印</div> <div>莊婷聿</div>
	姓名： 二、收件人 詳細地址：	
	姓名： 三、副本收件人 詳細地址：	
	(本欄姓名、地址不敷填寫時，請另紙聯記)	

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一	4.	承	前	所	述	,	縱	該	發	明	內	容	後	經	認	定	屬	於	職	務
二	上	發	明	,	在	益	生	公	司	與	吾	等	確	認	權	利	歸	屬	,	責
三	任	分	配	等	法	律	上	義	務	前	,	吾	等	亦	無	法	簽	署	相	關
四	文	件	。	」	等	語	。													
五	三	、	本	律	師	核	閱	相	關	文	件	,	茲	代	函	達	如	上	,	祈
六	請		查	照	。															
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八																				
九																				
十																				

備 註	本存證信函共 5 頁，正本 2 份，存證費 125 元， 副本 2 份，存證費 125 元， 附件 2 份，存證費 125 元， 加具副本 2 份，存證費 125 元，合計 1875 元。	黏	貼
	經 郵局 正 本內容完全相同 副 辦理員 主管 羅秀玉 印	郵 票 或 郵 資 券	
	一、存證信函需送交郵局辦理證明手續後始有效，自交寄之日起由郵局保存之副本，於三年期滿後銷燬之。 二、在 頁 行第 格下塗改增刪 字 如有修改應填註本欄並蓋用寄件人印章，但塗改增刪每頁至多不得逾二十字。 三、每件一式三份，用不脫色筆或打字機複寫，或書寫後複印、影印，每格限書一字，色澤明顯、字跡端正。		處

